

PRAYER

For these reasons, Defendants respectfully request that the Court grant the foregoing special exceptions. Defendants also request such other and further recovery to which they may be entitled.

Respectfully submitted,

/s/ Michael J. Mazzone

Michael J. Mazzone
State Bar No. 13313000
Varant Yegparian
State Bar No. 24070893
HAYNES AND BOONE, LLP
1221 McKinney, Suite 2100
Houston, Texas 77010
Telephone: (713) 547-2115
Facsimile: (713) 236-5662

James R. Harris
State Bar No. 09066000
Andrew M. Greenwell
State Bar No. 00784170
HARRIS & GREENWELL
One Shoreline Plaza
800 N. Shoreline Blvd., Suite 2800-S
Corpus Christi, Texas 78401

ATTORNEY FOR DEFENDANTS
WALLER MARINE, INC., WALLER
MAX GAS, LLC AND DAVID WALLER

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served on the following attorneys of record in accordance with the Texas Rules of Civil Procedure on March __, 2013

Roger S. Braugh, Jr.
State Bar No. 00796244
Stuart R. White
State Bar No. 24075268
900 Frost Bank Plaza
802 N. Carancahua
Corpus Christi, Texas 78401
Telephone: 361-653-3300
Facsimile: 361-653-3333

Shelby A. Jordan
State Bar. No. 11016700
Harlin C. Womble
Texas Bar No. 21880300
Antonio Ortiz
State Bar No. 24074839
500 North Shoreline Dr., Suite 900
Corpus Christi, Texas 78401
Telephone: 361-884-5678
Facsimile: 361-888-5555

/s/ Varant Yegparian
Varant Yegparian

CAUSE NO. 2013 CCV-60115-2

CANYON SUPPLY & LOGISTICS, LLCs	§	IN THE COUNTY COURT OF
	§	
Plaintiff	§	
VS.	§	
	§	
MAX FINANCIAL, LLC, in its assumed	§	
or common name; WALLER MARINE,	§	AT LAW NO. 2
INC. in its assumed or common name;	§	
DIVERSITY MAX, LLC, in its assumed	§	
or common name; DIVERSITY MAX	§	
CANYON PORT, LLC, in its assumed or	§	
Common name; DIVERSITY MAX CP	§	
HOLDINGS, LLC, in its assumed or	§	
common name; JEFFREY GREENWALT;	§	NUECES COUNTY, TEXAS
and, DAVID WALLER;	§	
	§	
Defendants.	§	

ORDER ON DEFENDANTS' AMENDED SPECIAL EXCEPTIONS

On this day, this Court considered Defendants Waller Marine, Inc., Waller Max Gas, LLC and David Waller's ("Defendants") Amended Special Exceptions to Plaintiff's Original Petition ("Petition"). This Court, having considered the Amended Special Exceptions, all responses and replies, if any, holds that:

Special Exception 1 is ___ GRANTED / ___ DENIED. Plaintiff is ordered to replead the equitable relief it seeks with specificity.

Special Exception 2 is ___ GRANTED / ___ DENIED. Plaintiff is ordered to replead the maximum amount of damages sought with specificity.

Special Exception 3 is ___ GRANTED / ___ DENIED. Plaintiff is ordered to replead the statute or statutes that provide it the right to recover attorney's fees with specificity.

Special Exception 4 is ___ GRANTED / ___ DENIED. Plaintiff is ordered to replead the "overt act" sustaining its civil conspiracy claim with specificity. Plaintiff must replead with specificity the "overt act" committed in furtherance of the civil conspiracy, the party committing

the “overt act” and how the “overt act” furthered the conspiracy’s objectives. Plaintiff is also ordered to replead the members of the conspiracy with specificity.

Special Exception 5 is ___ GRANTED / ___ DENIED. Plaintiff is ordered to replead its fraud claims. Plaintiff is further ordered to replead its common law fraud claim to allege the material false representations and misrepresentations made by Defendants and all facts showing that these representations and misrepresentations were made knowingly and intentionally. Plaintiff is further ordered to replead its Fraud by Nondisclosure and Fraudulent Inducement claim to specify the facts showing that Defendants’ course of action, conduct, acts and omissions concealed from or failed to disclose to Plaintiff material facts, facts showing these Defendants’ state of mind in committing these acts and all facts showing that Defendants owed Plaintiff a fiduciary duty, special relationship or other obligation giving rise to a duty to disclose. Plaintiff is further ordered to replead the heading of its Fraud by Nondisclosure and Fraudulent Inducement cause of action to remove any reference to Fraudulent Inducement. Plaintiff is further ordered to replead its statutory fraud cause of action to specify the facts showing the transaction in question, the alleged acts, omissions, conduct and misconduct forming the basis of Plaintiff’s injury and the material false misrepresentations, false promises or non-disclosed material false representations. Plaintiff is further ordered to specify which Defendants conveyed real property to Plaintiff and the particulars of this conveyance.

Special Exception 6 is ___ GRANTED / ___ DENIED. Plaintiff is ordered to replead its civil conspiracy claim to specify the entities or corporate forms that were used as a sham, how these entities were used as tools of another, how they were used to evade existing legal obligations, how they were used to prevent discovery of a crime or wrong, which entities were underinsured or underfunded, how Waller wrought an actual fraud on Plaintiff and how this fraud benefited Waller individually.

Special Exception 7 is ____ GRANTED / ____ DENIED. Plaintiff is ordered to replead its Petition to specify which Defendant individually committed each wrongful act.

Special Exception 8 is ____ GRANTED / ____ DENIED. Plaintiff is ordered to replead its breach of contract cause of action to specify the contract sued upon and the contractual terms violated by Defendants.

SIGNED this _____ day of _____, 2013

JUDGE PRESIDING

901 LEOPARD STREET ROOM 313 / CORPUS CHRISTI, TEXAS 78401
PHONE # 361-888-0450 / FAX # 361-888-0571

**FOR EACH PARTY SERVED YOU MUST FURNISH A COPY OF THE PLEADINGS,
TWO SETS OF COPIES FOR SEC. OF STATE / COM. OF INSURANCE, ETC.**

SERVICE WILL ONLY BE ISSUED UPON PAYMENT OF COST

CAUSE NUMBER: 2013CCV-60115-2 DATE OF REQUEST: _____

NAME OF DOCUMENT/PLEADING TO BE SERVED:

POP

☒ ATTORNEY OR PROCESS SERVER:

Ramona

PHONE: 361-653-3300

☐ CERTIFIED MAIL ☐ RESTRICTED DELIVERY ☐ CONSTABLE/SHERIFF ☐ RETURN BY MAIL

[] COURTHOUSE POSTING # OF DAYS TO BE POSTED: _____ STATEMENT OF SUIT (USE REVERSE SIDE)

[] PUBLICATION # OF DAYS TO BE PUBLISHED: _____

NAME OF NEWSPAPER:

PARTY/PARTIES TO BE SERVED:

[1] NAME/AGENT
ADDRESS

FOUR TO SECRETARY UK STATE

[2] NAME/AGENT
ADDRESS

Four in regular citation,

[3] NAME/AGENT
ADDRESS

Secretariat

SIGNATURE REQUIRED BY ATTORNEY OR PARTY REQUESTING PROCESS

NAME

PHONE NUMBER

MAILING ADDRESS:

COMMISSIONER OF THE REVENUE, TEXAS
BY *[Signature]* DEPUTY

22/2/2013

FILED

COUNTY OF NUECES

The above and foregoing is a true and correct copy as the same appears on and/or recorded in the appropriate records of Nueces County, Texas.

areby certified on

3/8/13



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

ORIGINAL

Citation for Personal Service – Secretary of StateCause Number: 2013CCV-60115-2

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Diversity Max Canyon Port, LLC**
Through E. Scott Treadway
11805 N. Pennsylvania Street
Carmel, Indiana 46032

the Defendant, by serving in DUPLICATE copies to the OFFICE OF THE SECRETARY OF STATE, CITATIONS UNIT, P. O. BOX 12079, AUSTIN, TEXAS 78711-2079.

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the Honorable Lisa Gonzales, County Court at Law No. 2 of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said **Petition** was filed on the **22nd day of January, 2013**. A copy of same accompanies this citation.

The file number of said suit being Number: **2013CCV-60115-2**

The style of the case is: **Canyon Supply & Logistics, LLC vs. Max Financial, LLC, Waller Marine, Inc., Diversity Max, LLC, et al**

Said **petition** was filed in said court by **Roger S. Braugh, Jr.**, attorney for Plaintiff, whose address is **Sico, White & Braugh L.L.P., 802 N. Carancahua, Suite 900, Corpus Christi, TX 78401**.

The nature of the demand is fully shown by a true and correct copy of the **Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this **28th day of January, 2013**.



BY

[Signature]
SANDRA H. MEDINA

PATSY PEREZ District Clerk
Nueces County, Texas

FILED
2013 FEB 20 AM 9:50
PATSY PEREZ
CLERK OF DISTRICT COURT
NUECES COUNTY, TEXAS

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County Court At Law # 2 Court

Case Number: 2013-CCV-60115-2

Plaintiff:

CANYON SUPPLY & LOGISTICS LLC

vs.

Defendant:

**MAX FINANCIAL LLC, WALLER MARINE, INC , DIVERSITY MAX LLC,
DIVERSITY MAX CANYON PORT LLC , DIVERSITY MAX CP HOLDINGS
LLC, JEFFREY GREENWALT AND DAVID WALLER**



Canyon Supply

For:

Stuart R. White
Sico White Hoelscher & Braugh
802 N. Carancahua Suite 900
Frost Bank Plaza
Corpus Christi, TX 78470

Received by ALLEN CIVIL PROCESS on the 8th day of February, 2013 at 3:26 pm to be served on **Diversity Max Canyon Port LLC Serving: OFFICE OF THE SECRETARY OF STATE, 1019 Brazos Room 220, Ruders Building, Austin, TX 78701.**

I, Jason Carson, being duly sworn, depose and say that on the **14th day of February, 2013 at 2:50 pm, I:**

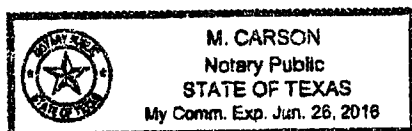
served the **TEXAS SECRETARY OF STATE** by delivering a true copy of the **.Citation and Plaintiffs Original Petition and .Civil Case Information Sheet and \$55.00 Check For Secretary Of State** with the date of service endorsed thereon by me, to: **MICHAEL ORTA at 1019 Brazos, Room 220, Austin, TX 78701**, as the designated agent for the Texas Secretary of State to accept service of process on behalf of **Diversity Max Canyon Port LLC**. An administrative fee of \$55.00 was also tendered.

Description of Person Served: Age: 35, Sex: M, Race/Skin Color: Hispanic, Height: 5'10", Weight: 300, Hair: Salt & Pepper, Glasses: Y

I am a private process server authorized by the Supreme Court of Texas. I am over the age of twenty-one, not a party to nor interested in the outcome of this lawsuit. I am capable of making this Affidavit, and fully competent to testify to the matters stated herein. I have personal knowledge of each of the matters stated herein and the statements made in this Affidavit are true and correct.

Subscribed and Sworn to before me on the 14th day of February, 2013 by the affiant who is personally known to me.

NOTARY PUBLIC




Jason Carson
SCH-2544 Expires 3/31/2013

ALLEN CIVIL PROCESS
400 Mann Street
Suite 902
Corpus Christi, TX 78401
(361) 884-1657
Our Job Serial Number: ALN-2013001013
Ref: Canyon Supply

FILED-PAISY PEREZ
2013 FEB 20 AM 9:50
CLERK OF DISTRICT COURT
NUECES COUNTY TEXAS



Citation for Personal Service – Secretary of State

Cause Number: **2013CCV-60115-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Diversity Max CP Holdings, LLC**
Through E. Scott Treadway
11805 N. Pennsylvania Street, Ste. 163
Carmel, Indiana 46032

the Defendant, by serving in **DUPLICATE** copies to the OFFICE OF THE SECRETARY OF STATE, CITATIONS UNIT, P. O. BOX 12079, AUSTIN, TEXAS 78711-2079.

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law No. 2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said **Petition** was filed on the **22nd day of January, 2013**. A copy of same accompanies this citation.

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Said **petition** was filed in said court by **Roger S. Braugh, Jr.**, attorney for Plaintiff, whose address is **Sico, White & Braugh L.L.P., 802 N. Carancahua, Suite 900, Corpus Christi, TX 78401**.

The nature of the demand is fully shown by a true and correct copy of the **Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this **28th day of January, 2013**.

COPY ONLY
NOT VALID FOR SERVICE

PATSY PEREZ District Clerk
Nueces County, Texas

BY _____ **DEPUTY**
SANDRA H. MEDINA

RETURN OF SERVICE

2013CCV-60115-2

CANYON SUPPLY & LOGISTICS,
LLC

COUNTY COURT OF LAW NO. 2

VS.

MAX FINANCIAL, LLC, WALLER
MARINE, INC., DIVERSITY MAX,
LLC, ET AL

Name _____

ADDRESS FOR SERVICEDiversity Max CP Holdings,
LLC, Through E. Scott
Treadway, 11805 N.
Pennsylvania Street, Ste. 163
Carmel, Indiana 46032**OFFICER'S OR AUTHORIZED PERSON'S RETURN**

Came to hand on the _____ day of _____, 20____, at _____ o'clock ____ m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Fees:	_____	Officer
Serving Petition and Copy \$	_____	County, Texas
Total \$	_____	By _____ Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
(First, Middle, Last)

address is _____
(Street, City, State, Zip, Country)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of
of _____, 20____.

Declarant / Authorized Process Server

ID# & Expiration of Certification

CLERK OF NUECES

above and foregoing is a true and
correct copy as the same appears on
and/or recorded in the appropriate
records of Nueces County, Texas.
Solely certified on: 3/8/13



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

*Served***Citation for Personal Service – Secretary of State**Cause Number: **2013CCV-60115-2**

THE STATE OF TEXAS

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TO: **Diversity Max, LLC**
EST LAW
11805 N. Pennsylvania Street, Ste. 103
Carmel, Indiana 46032

the Defendant, by serving in **DUPLICATE** copies to the OFFICE OF THE SECRETARY OF STATE, CITATIONS UNIT, P. O. BOX 12079, AUSTIN, TEXAS 78711-2079.

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law No. 2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said **Petition** was filed on the **22nd day of January, 2013**. A copy of same accompanies this citation.

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COPY ONLY
NOT VALID FOR SERVICE

PATSY PEREZ District Clerk
Nueces County, Texas

BY _____ DEPUTY
SANDRA H. MEDINA

RETURN OF SERVICE

2013CCV-60115-2

**CANYON SUPPLY & LOGISTICS,
LLC
VS.
MAX FINANCIAL, LLC, WALLER
MARINE, INC., DIVERSITY MAX,
LLC, ET AL**

COUNTY COURT OF LAW NO. 2

Name _____

ADDRESS FOR SERVICE

Diversity Max, LLC
EST LAW, 11805 N.
Pennsylvania Street, Ste. 103
Carmel, Indiana 46032

OFFICER'S OR AUTHORIZED PERSON'S RETURN

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NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE

And not executed as to the defendant(s), _____
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and the cause of failure to execute this process is: _____

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Fees:	_____	Officer
Serving Petition and Copy \$	_____	County, Texas
Total \$	_____	By _____ Deputy

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(Street, City, State, Zip, Country)

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Executed in _____ County, State of _____, on the _____ day of
of _____, 20____.

Declarant / Authorized Process Server

ID# & Expiration of Certification

COUNTY OF NUECES

the above and foregoing is a true and
correct copy as the same appears on
and/or recorded in the appropriate
records of Nueces County, Texas
I hereby certify on _____



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County Court At Law # 2 Court

Case Number: 2013-CCV-60115-2

Plaintiff:

CANYON SUPPLY & LOGISTICS LLC

vs.

Defendant:

**MAX FINANCIAL LLC, WALLER MARINE, INC , DIVERSITY MAX LLC,
DIVERSITY MAX CANYON PORT LLC , DIVERSITY MAX CP HOLDINGS
LLC, JEFFREY GREENWALT AND DAVID WALLER**



Canyon Supply

For:

Stuart R. White
Sico White Hoelscher & Braugh
802 N. Carancahua Suite 900
Frost Bank Plaza
Corpus Christi, TX 78470

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I, Jason Carson, being duly sworn, depose and say that on the **14th day of February, 2013 at 2:50 pm, I:**

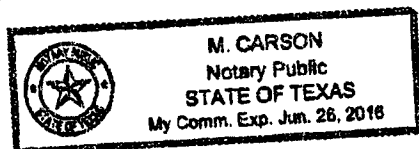
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Subscribed and Sworn to before me on the 14th day of February, 2013 by the affiant who is personally known to me.

NOTARY PUBLIC




Jason Carson
SCH-2544 Expires 3/31/2013

ALLEN CIVIL PROCESS
400 Mann Street
Suite 902
Corpus Christi, TX 78401
(361) 884-1657
Our Job Serial Number: ALN-2013001012
Ref: Canyon Supply

FILED-PATSY PEREZ
2013 FEB 20 AM 9:49
CLERK OF DISTRICT COURT
NUECES COUNTY TEXAS



pu

Citation for Personal Service – Secretary of State

Cause Number: 2013CCV-60115

ORIGINAL

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Max Financial, LLC**
Through E. Scott Treadway
11805 N. Pennsylvania Street
Carmel, Indiana 46032

the Defendant, by serving in **DUPLICATE** copies to the OFFICE OF THE SECRETARY OF STATE, CITATIONS UNIT, P. O. BOX 12079, AUSTIN, TEXAS 78711-2079.

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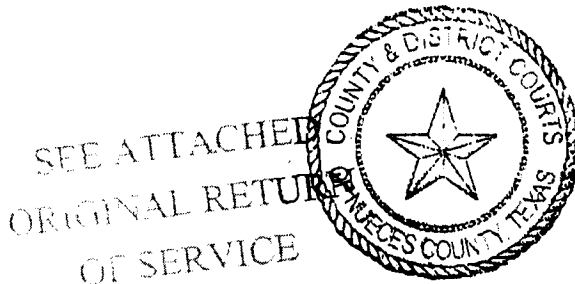
The style of the case is: **Canyon Supply & Logistics, LLC vs. Max Financial, LLC, Waller Marine, Inc., Diversity Max, LLC, et al**

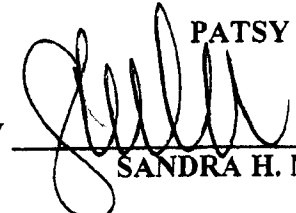
Said **petition** was filed in said court by **Roger S. Braugh, Jr.**, attorney for Plaintiff, whose address is **Sico, White & Braugh L.L.P., 802 N. Carancahua, Suite 900, Corpus Christi, TX 78401**.

The nature of the demand is fully shown by a true and correct copy of the **Petition** accompanying this citation and made a part hereof.

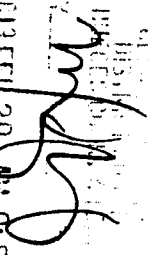
The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this **28th day of January, 2013**.



BY  **PATSY PEREZ District Clerk**
Nueces County, Texas
SANDRA H. MEDINA DEPUTY

2013 FEB 20 AM 9:50
FILED-PATSY PEREZ



COUNTY OF NUECES

The above and foregoing is a true and correct copy as the same appears on and/or recorded in the appropriate records of Nueces County, Texas.

Hereby certified on

3/8/13



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

Citation for Personal Service – Secretary of State

Cause Number: **2013CCV-60115-2**

THE STATE OF TEXAS

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TO: **Max Financial, LLC**
Through E. Scott Treadway
11805 N. Pennsylvania Street
Carmel, Indiana 46032

the Defendant, by serving in **DUPLICATE** copies to the OFFICE OF THE SECRETARY OF STATE, CITATIONS UNIT, P. O. BOX 12079, AUSTIN, TEXAS 78711-2079.

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PATSY PEREZ District Clerk
Nueces County, Texas

COPY ONLY
NOT VALID FOR SERVICE

BY

SANDRA H. MEDINA

DEPUTY

RETURN OF SERVICE

2013CCV-60115-2

CANYON SUPPLY & LOGISTICS,
LLC
VS.
MAX FINANCIAL, LLC, WALLER
MARINE, INC., DIVERSITY MAX,
LLC, ET AL

COUNTY COURT OF LAW NO. 2

Name _____

ADDRESS FOR SERVICE

Max Financial, LLC
Through E. Scott Treadway
11805 N. Pennsylvania Street
Carmel, Indiana 46032

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20____, at _____ o'clock ____ m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE
And not executed as to the defendant(s), _____		
The diligence used in finding said defendant(s) being: _____		
and the cause of failure to execute this process is: _____		
and the information received as to the whereabouts of said defendant(s) being: _____		
Fees:	_____	Officer
Serving Petition and Copy \$ _____	_____	County, Texas
Total \$ _____	By _____	Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
(First, Middle, Last)

address is _____
(Street, City, State, Zip, Country)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of
of _____, 20____.

Declarant / Authorized Process Server

ID# & Expiration of Certification

JR NUECES

• above and foregoing is a true and
correct copy as the same appears on
and/or recorded in the appropriate
records of Nueces County Texas
hereby certified on

3/8/13



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County Court At Law # 2 Court

Case Number: 2013-CCV-60115-2

Plaintiff:

CANYON SUPPLY & LOGISTICS LLC

vs.

Defendant:

**MAX FINANCIAL LLC, WALLER MARINE, INC , DIVERSITY MAX LLC,
DIVERSITY MAX CANYON PORT LLC , DIVERSITY MAX CP HOLDINGS
LLC, JEFFREY GREENWALT AND DAVID WALLER**

Canyon Supply

For:

Stuart R. White
Sico White Hoelscher & Braugh
802 N. Carancahua Suite 900
Frost Bank Plaza
Corpus Christi, TX 78470

Received by ALLEN CIVIL PROCESS on the 8th day of February, 2013 at 3:26 pm to be served on **Diversity Max LLC** Serving: **OFFICE OF THE SECRETARY OF STATE, 1019 Brazos Room 220, Ruders Building, Austin, TX 78701.**

I, Jason Carson, being duly sworn, depose and say that on the **14th day of February, 2013 at 2:50 pm, I:**

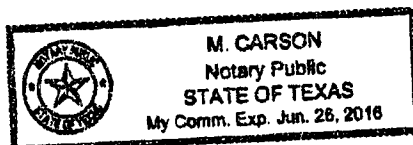
served the **TEXAS SECRETARY OF STATE** by delivering a true copy of the **.Citation and Plaintiffs Original Petition and .Civil Case Information Sheet and \$55.00 Check For Secretary Of State** with the date of service endorsed thereon by me, to: **MICHAEL ORTA at 1019 Brazos, Room 220, Austin, TX 78701**, as the designated agent for the Texas Secretary of State to accept service of process on behalf of **Diversity Max LLC**. An administrative fee of \$55.00 was also tendered.

Description of Person Served: Age: 35, Sex: M, Race/Skin Color: Hispanic, Height: 5'10", Weight: 300, Hair: Salt & Pepper, Glasses: Y

I am a private process server authorized by the Supreme Court of Texas. I am over the age of twenty-one, not a party to nor interested in the outcome of this lawsuit. I am capable of making this Affidavit, and fully competent to testify to the matters stated herein. I have personal knowledge of each of the matters stated herein and the statements made in this Affidavit are true and correct.

Subscribed and Sworn to before me on the 14th day of February, 2013 by the affiant who is personally known to me.

NOTARY PUBLIC




Jason Carson
SCH-2544 Expires 3/31/2013

ALLEN CIVIL PROCESS
400 Mann Street
Suite 902
Corpus Christi, TX 78401
(361) 884-1657
Our Job Serial Number: ALN-2013001012
Ref: Canyon Supply

FILED-PATSY PEREZ
2013 FEB 20 AM 9:49
CLERK OF DISTRICT COURT
NUECES COUNTY, TEXAS



pu

Citation for Personal Service – Secretary of State

Cause Number: 2013CCV-60115-2

ORIGINAL

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Max Financial, LLC**
Through E. Scott Treadway
11805 N. Pennsylvania Street
Carmel, Indiana 46032

the Defendant, by serving in **DUPLICATE** copies to the OFFICE OF THE SECRETARY OF STATE, CITATIONS UNIT, P. O. BOX 12079, AUSTIN, TEXAS 78711-2079.

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law No. 2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said **Petition** was filed on the **22nd day of January, 2013**. A copy of same accompanies this citation.

The file number of said suit being Number: **2013CCV-60115-2**

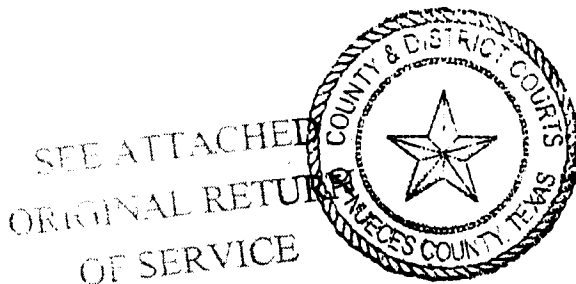
The style of the case is: **Canyon Supply & Logistics, LLC vs. Max Financial, LLC, Waller Marine, Inc., Diversity Max, LLC, et al**

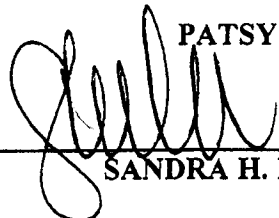
Said **petition** was filed in said court by **Roger S. Braugh, Jr.**, attorney for Plaintiff, whose address is **Sico, White & Braugh L.L.P., 802 N. Carancahua, Suite 900, Corpus Christi, TX 78401**.

The nature of the demand is fully shown by a true and correct copy of the **Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this **28th day of January, 2013**.



BY  **PATSY PEREZ** District Clerk
Nueces County, Texas
DEPUTY
SANDRA H. MEDINA

FILED
2013 FEB 20 AM 9:50
CLERK OF DISTRICT COURT
NUECES COUNTY TEXAS

COUNTY OF NUECES

The above and foregoing is a true and correct copy as the same appears on and/or recorded in the appropriate records of Nueces County, Texas

areby certified on

3/8/13



RATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

Citation for Personal Service - RESIDENT

Cause Number: 2013CCV-60115-2

THE STATE OF TEXAS

COPY ONLY
NOT VALID FOR SERVICE

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Waller Marine, Inc.**
By Serving Its Registered Agent David B. Waller
14410 West Sylvanfield
Houston, TX 77014
the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law No. 2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said **Petition** was filed on the **22nd day of January, 2013**. A copy of same accompanies this citation.
The file number of said suit being Number: **2013CCV-60115-2**

The style of the case is: **Canyon Supply & Logistics, LLC vs. Max Financial, LLC, Waller Marine, Inc., Diversity Max, LLC, et al**

Said **Petition** was filed in said court by **Roger S. Braugh, Jr.**, attorney for Plaintiff, whose address is **Sico, White & Braugh L.L.P., 802 N. Carancahua, Suite 900, Corpus Christi, TX 78401**.

The nature of the demand is fully shown by a true and correct copy of the **Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this **28th day of January, 2013**.

PATSY PEREZ, District Clerk
Nueces County, Texas

BY _____ DEPUTY
SANDRA H. MEDINA

COPY ONLY
NOT VALID FOR SERVICE

RETURN OF SERVICE

2013CCV-60115-2

CANYON SUPPLY & LOGISTICS,
LLC
VS.
MAX FINANCIAL, LLC, WALLER
MARINE, INC., DIVERSITY MAX,
LLC, ET AL

COUNTY COURT OF LAW NO. 2

Name _____

ADDRESS FOR SERVICE

Waller Marine, Inc. 14410 West Sylvanfield
By Serving Its Registered Houston, TX 77014
Agent David B. Waller

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20____, at _____ o'clock ____ m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE

And not executed as to the defendant(s), _____
The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Fees:	_____	Officer
Serving Petition and Copy \$ _____	_____	County, Texas
Total \$ _____	By _____	Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
(First, Middle, Last)

address is _____
(Street, City, State, Zip, Country)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of
of _____, 20____.

Declarant / Authorized Process Server

ID# & Expiration of Certification

COUNTY OF NUECES

The above and foregoing is a true and correct copy as the same appears on and/or recorded in the appropriate records of Nueces County, Texas.

Hereby certified on

3/8/13



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

pm

Citation for Personal Service –RESIDENT

ORIGINAL

Cause Number: 2013CCV-60115-2

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: Waller Max Gas, LLC
By Serving Its Registered Agent David B. Wallace
14410 W. Sylvanfield Drive
Houston, TX 77014

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law No. 2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said **Petition** was filed on the **22nd day of January, 2013**. A copy of same accompanies this citation.

The file number of said suit being Number: **2013CCV-60115-2**

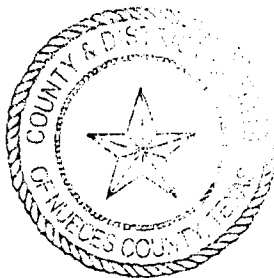
The style of the case is: **Canyon Supply & Logistics, LLC vs. Max Financial, LLC, Waller Marine, Inc., Diversity Max, LLC, et al**


Said **Petition** was filed in said court by **Roger S. Braugh, Jr.**, attorney for Plaintiff, whose address is **Sico, White & Braugh L.L.P., 802 N. Carancahua, Suite 900, Corpus Christi, TX 78401**.

The nature of the demand is fully shown by a true and correct copy of the **Petition** accompanying this citation and made a part hereof.

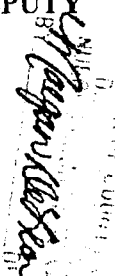
The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this **28th day of January, 2013**.



PATSY PEREZ, District Clerk
Nueces County, Texas
BY  **SANDRA H. MEDINA** **DEPUTY**

**SEE ATTACHED
ORIGINAL RETURN
OF SERVICE**

FILED - PATSY PEREZ
2013 FEB 16 PM 1:10


AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County Court At Law # 2 Court

Case Number: 2013-CCV-60115-2

Plaintiff:

CANYON SUPPLY & LOGISTICS LLC

vs.

Defendant:

**MAX FINANCIAL LLC, WALLER MARINE, INC , DIVERSITY MAX LLC,
DIVERSITY MAX CANYON PORT LLC , DIVERSITY MAX CP HOLDINGS
LLC, JEFFREY GREENWALT AND DAVID WALLER**



Canyon Supply

For:

Stuart R. White
Sico White Hoelscher & Braugh
802 N. Carancahua Suite 900
Frost Bank Plaza
Corpus Christi, TX 78470

Received by ALLEN CIVIL PROCESS on the 8th day of February, 2013 at 3:26 pm to be served on **Diversity Max CP Holdings LLC** Serving: **OFFICE OF THE SECRETARY OF STATE, 1019 Brazos Room 220, Ruders Building, Austin, TX 78701.**

I, Jason Carson, being duly sworn, depose and say that on the **14th day of February, 2013 at 2:50 pm, I:**

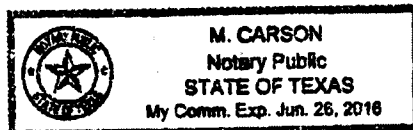
served the **TEXAS SECRETARY OF STATE** by delivering a true copy of the **.Citation and Plaintiffs Original Petition and .Civil Case Information Sheet and \$55.00 Check For Secretary Of State** with the date of service endorsed thereon by me, to: **MICHAEL ORTA at 1019 Brazos, Room 220, Austin, TX 78701**, as the designated agent for the Texas Secretary of State to accept service of process on behalf of **Diversity Max CP Holdings LLC**. An administrative fee of \$55.00 was also tendered.

Description of Person Served: Age: 35, Sex: M, Race/Skin Color: Hispanic, Height: 5'10", Weight: 300, Hair: Salt & Pepper, Glasses: Y

I am a private process server authorized by the Supreme Court of Texas. I am over the age of twenty-one, not a party to nor interested in the outcome of this lawsuit. I am capable of making this Affidavit, and fully competent to testify to the matters stated herein. I have personal knowledge of each of the matters stated herein and the statements made in this Affidavit are true and correct.

Subscribed and Sworn to before me on the 14th day of February, 2013 by the affiant who is personally known to me.


NOTARY PUBLIC




Jason Carson
SCH-2544 Expires 3/31/2013

ALLEN CIVIL PROCESS
400 Mann Street
Suite 902
Corpus Christi, TX 78401
(361) 884-1657
Our Job Serial Number: ALN-201300701
Ref: Canyon Supply

FILED-PATSY PEREZ
2013 FEB 20 AM 9:50
BY [Signature]



COUNTY OF NUECES

I, above and foregoing is a true and
correct copy as the same appears on
and/or recorded in the appropriate
records of Nueces County, Texas.

Witness my hand and seal this 3/8/13



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW

pm

ORIGINAL

Citation for Personal Service –RESIDENT

Cause Number: 2013CCV-60115-2

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **David Waller**
14410 W. Sylvanfield
Houston, TX 77014

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law No. 2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said **Petition** was filed on the **22nd day of January, 2013**. A copy of same accompanies this citation.

The file number of said suit being Number: **2013CCV-60115-2**

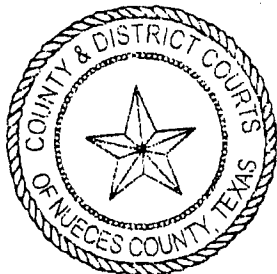
The style of the case is: **Canyon Supply & Logistics, LLC vs. Max Financial, LLC, Waller Marine, Inc., Diversity Max, LLC, et al**

Said **Petition** was filed in said court by **Roger S. Braugh, Jr.**, attorney for Plaintiff, whose address is **Sico, White & Braugh L.L.P., 802 N. Carancahua, Suite 900, Corpus Christi, TX 78401**.

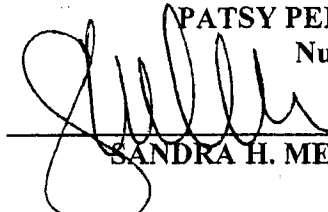
The nature of the demand is fully shown by a true and correct copy of the **Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this **28th day of January, 2013**.



SEE ATTACHED
ORIGINAL RETURN
OF SERVICE

BY  **PATSY PEREZ, District Clerk**
Nueces County, Texas
DEPUTY
SANDRA H. MEDINA

FILED-PATSY PEREZ

FILED IN 141
141-141-141

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County Court At Law # 2 Court

Case Number: 2013-CCV-60115-2



Canyon Supply

Plaintiff:

CANYON SUPPLY & LOGISTICS LLC

vs.

Defendant:

MAX FINANCIAL LLC, WALLER MARINE, INC , DIVERSITY MAX LLC, DIVERSITY MAX CANYON PORT LLC , DIVERSITY MAX CP HOLDINGS LLC, JEFFREY GREENWALT AND DAVID WALLER

For:

Stuart R. White
Sico White Hoelscher & Braugh
802 N. Carancahua Suite 900
Frost Bank Plaza
Corpus Christi, TX 78470

Received by Allen Civil Process on the 8th day of February, 2013 at 9:35 am to be served on **David Waller, 14410 W. Sylvanfield, Houston, TX 77014.**

I, Matt Miller, being duly sworn, depose and say that on the **12th day of February, 2013 at 11:16 am, I:**

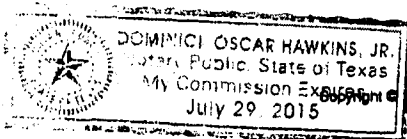
PERSONALLY delivered a true copy of the .Citation and Plaintiffs Original Petition and .Civil Case Information Sheet with the date of service endorsed thereon by me, to: **David Waller** at the address of: **14410 W. Sylvanfield, Houston, TX 77014**, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 50s, Sex: M, Race/Skin Color: White, Height: 5'10, Weight: 210, Hair: Brown, Glasses: N

I am an authorized private process server authorized by the Supreme Court of Texas. I am over the age of eighteen (18) and I am not a party to nor interested in the outcome of this lawsuit. I am of sound mind and capable of making this Affidavit. I am fully competent to testify to the matters stated herein. I am personally acquainted with the facts herein stated in this Affidavit which are true and correct.

Subscribed and Sworn to before me on the 12th day of February, 2013 by the affiant who is personally known to me.

NOTARY PUBLIC



Matt Miller

SCH-9756 EXP: 6/30/15


Allen Civil Process
400 Main Street, Suite 902
Corpus Christi, TX 78401
(361) 884-1657

Our Job Serial Number: ALN-2013004006
Ref: Canyon Supply

FILED-PATIS

Handwritten signature/initials



COUNTY OF NUECES
The above and foregoing is a true and
correct copy as the same appears on
and/or recorded in the appropriate
records of Nueces County, Texas.
I hereby certify on 3/8/13
 PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW